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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/036,329	10/19/2001	Michael Sprague	WAVE-004XX	3245

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EXAMINER

BAUTISTA, XIOMARA L

ART UNIT PAPER NUMBER

2179

DATE MAILED: 09/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/036,329	<b>Applicant(s)</b> SPRAGUE ET AL.	
	<b>Examiner</b> X. L. Bautista	<b>Art Unit</b> 2179	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 19 October 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 September 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>10/19/01</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

2. Claims 1-28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. The term "substantially" in claims 1, 19 and 28 is a relative term, which renders the claims indefinite. The term "substantially" is not defined by the claims, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. Correction and/or clarification is required.

### *Claim Rejections - 35 USC § 103*

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claims 1-7, 11-14, 19-22, 27 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Newsire* (article entitled, NBC to Broadcast Interactive Fall 1997-98 Programming Enhanced With Wink ITV™, published June 30, 1997).**

Claims 1, 19 and 28:

Newsire discloses a system and method for delivering enhanced broadcasting to viewers in realtime. Internet-like features or enhanced program elements are displayed atop the TV broadcast in an interactive graphical overlay that enables viewers to interact with the TV. Interface tools enable a user to package interactive value-added information in a layer displayed on top of the broadcast layer, and the user is not required to tune away from their favorite shows or commercial to access these enhanced features (pages 1-2). Newsire does not teach that the overlay is transparent. However, it would have been obvious to include a transparent layer for enhancing the TV programming because it would provide users with supplemental information relating to the TV broadcast being watched by the user, which makes it fun and attractive without interfering with the experience of watching the show.

Claims 2-4:

Newsire explains that the method and system include a computer network comprising Internet (pages 1-2). Newsire does not teach the network comprises a local area network or a wide area network. However, it would have been further

obvious to include these networks because they would enable offices, schools, and/or colleges to receive interactive programming that might be used for purposes of training and/or learning.

Claim 5:

See claim 1. Newswire teaches the interactive overlay layer is implemented in software running on the computer (pages 1-2).

Claim 6:

See claim 1. Newswire teaches that users are enabled to browse (pages 1-2) and that the dynamic display is merged with the broadcast presentation (page 1).

Claim 7:

See claim 1. Newswire teaches that Wink ITV (user-selectable multimedia tools including drawing tools) allows users to reference an object appearing in the broadcast presentation (page 1, par. 3; page 2, last 2 paragraphs).

Claim 11:

Newswire teaches text and graphic insertion (page 2).

Claims 12 and 27:

See claim 1. Newswire teaches delivery of enhancements but it does not specifically teach a delivery icon to trigger delivery. However, it would have been obvious to provide a graphical object for transmitting enhancements to the viewers because it enables the content creator to send enhancements easily and quickly

since it would not require programming or entry of text commands, which would make the delivery problematic and slow.

Claim 13:

Newsire teaches a broadcast presentation comprising television broadcast (pages 1-2).

Claim 14:

Newsire teaches realtime and non-realtime broadcast presentation (page 1).

Claims 20-22:

See claim 1. Newsire teaches that Wink ITV the use of the Internet and the World Wide Web (server accessible by the user's and viewer's computers).

**6. Claims 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Newsire* and *Yamada et al* (US 6,845,486 B2).**

Claims 8-10:

Newsire does not teach the use of speech, thought or text boxes (bubbles). However, Yamada discloses a user support method that facilitates a user to view and find desired information. Yamada illustrates in figs. 17-21 the use of speech bubbles, thought bubbles, and text boxes to provide the user with guidance or information that may be of interest to the user (col. 15, line 33-col. 16, line 46). Thus, it would have been obvious to one ordinarily skilled in the art at the time the

invention was made to include Yamada's teaching of text boxes in the multimedia tools of Wink ITV because they provide information that is attractive and difficult to miss, and they also offer visual indication of the person that is providing the information.

7. **Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over *Newswire* and *Wang* (US 6,516,029 B1).**

Claim 15:

See claim 1. *Newswire* teaches broadcast presentation having video and audio but it does not teach an audio editor. However, *Wang* discloses a method for video encoding having video and audio data that may be from an audio node or other sources of audio such as audio overlays, editors, etc. *Wang* teaches that different types of external information can be received from an external input (col. 5, lines 20-27). Therefore, it would have obvious to a person having ordinary skill in the art at the time of invention to include *Wang*'s teaching of an audio editor in Wink ITV tools because they facilitate addition and modification of audio information.

8. **Claims 16-18 and 23-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Newswire* and *Mitchell et al* (US 6,175,343 B1).**

Claims 16-18 and 23-26:

Newswire does not teach a broadcast mute tool. However, Mitchell discloses a system and method of operating an overlay for generating effects into a live image. Mitchell teaches that video and audio can be overlaid with informational or historic recreations to enhance the exhibit experience (abstract; col. 9, lines 26-67; col. 10, lines 1-37). Mitchell explains that the overlay may be configured without the audio portion (col. 13, lines 1-13). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Wink ITV's tools to include options for enabling and/or disabling enhancements (text, graphics, audio, video, etc.) and/or the broadcast signal because it permits important messages (enhancements) to get across by diminishing the activity (eliminating/reducing) of the broadcast (audio or video signals) presentation.

***Conclusion***

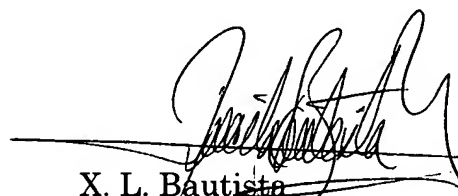
9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to X. L. Bautista whose telephone number is (571) 272-4132. The examiner can normally be reached on Tuesday-Friday 8:00AM-6:00PM.



If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on (571) 272-4847. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

11. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



X. L. Bautista  
Primary Examiner  
Art Unit 2179

xlb  
September 14, 2006